(Judgment reserved)

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 917 (M/B) of 2003

Dharam Singh,
Son of Suren Singh
Resident of Village-Pacchawala,
Tehsil- Kashipur
District- Udham Singh Nagar ……Petitioner

V e r s u s

1. State of Uttaranchal through Chief Secretary, Uttaranchal Shashan Dehradun,
2. District Magistrate, Udham Singh Nagar
3. Sub Divisional Magistrate, District - Udham Singh Nagar
4. Tehsildar, District- Udham Singh Nagar

…….Respondents

Coram:
Hon'ble M.M.Ghildiyal, J.
Hon'ble B.S.Verma, J.

Oral Judgment (Per Hon'ble M.M.Ghildiyal, J).

Heard Sri C.K. Sharma, learned counsel for the petitioner and learned standing counsel for the state of Uttaranchal.

By means of this writ petition, the petitioners have prayed to issue a writ in the nature of Mandamus commanding the respondents to issue other backward class certificate to the petitioner.

The submission of the petitioner is that he is member of Jatt Community, which is one of the other backward classes. Respondents refused to give caste

certificate to the petitioner on the ground that he is not a member of Jat Community and is a member of Jatt Community. O9n 17.05.2005 after hearing both the parties this court directed the respondents to file an affidavit within a period of one month explaining the stand of the Government with regard to the points mentioned below:

i. Whether there is a separate community called "Jat Sikh" (tV fl[k) community which is different from "Jatt Sikh" (tkV fl[k) community?

ii. If "Jat Sikh" (tV fl[k) community is different from "Jatt Sikh" (tkV fl[k) community whether "Jat Sikh" (tV fl[k) community has been included among the Other Backward Classes?

iii. If "Jat Sikh" (tV fl[k) community is not different from "Jatt Sikh" (tkV fl[k) community, why the petitioner cannot be given a caste certificate as prayed by him.

The Chief Secretary, Government of Uttaranchal, has filed an affidavit on 30th June, 2005. In the affidavit, it is submitted about the first query that "Jatt Sikh" (tkV fl[k) is different from "Jat Sikh" (tV fl[k). In respect of second query it is submitted that "Jat" has been included amongst Other Backward Classes.

Learned counsel for the petitioner has submitted that the claim of the petitioner is based on the entry no. 78 specified in Schedule I of the

U.P. Public Services (Reservation for Scheduled Caste, Scheduled Tribe and Other Backward Classes) Act, 1994 (hereinafter referred to as Act).

Section 2 (b) of the Act provides Other Backward Classes of citizens mean the backward classes of citizen specified in Schedule I. At the time, when the Act was originally enacted, Schedule I contained names of 55 castes, which were recognized as backward classes. Subsequently, by notification issued from time to time some more castes were added and finally by notification dated 10.03.2000 "Jat" has been included as item no. 78 and since the petitioner is "Jatt Sikh" (tkV fl[k) he is entitled for Other Backward Class Certificate.

He has further placed reliance on the notification No. 2396/Samaj Kalyan/ 02-558 (Samaj Kalyan) 2002 dated 31.12.2002 wherein it is stated that the caste certificate be issued to the caste mentioned in the schedule irrespective of their religion and since in the schedule "Jat" is mentioned, the "Jat Sikh" (tV fl[k) is entitled to get the certificate of Other Backward Class.

He has further submitted that a similar controversy came up before Allahabad High Court in Writ Petition No.30727 of 2000 (Baldev Singh Vs. Tehsildar, Bilaspur District-Rampur and others) and the Hon'ble High Court vide its judgment dated 25.08.2000 has held that "Jatt Sikh" is fully covered

by entry no. 78 of Schedule I of Act, 1994 and is member of Other Backward Classes.

He has further placed reliance on judgment passed by Division Bench of Allahabad High Court in Writ Petition No. 48573 of 2000 (Gurmeet Singh Vs. Higher Education Service Commission, Allahabad and others)

Since the petitioner

is admittedly a "Jat Siks" and Jatt is included in Schedule I of Other Backward Classes and further State of Uttaranchal of 31.12.2002 issued an order which is Annexure No. 3 to the writ petition that the certificate for Other Backward Classes be given to the persons of the caste which is mentioned in the Sechedule irrespective of their religion.

For the reasons recorded above, the writ petition succeeds and respondents are directed to reconsider the matter for issuing necessary certificate to the petitioner. No order as to costs.

(B.S. Verma, J.) **(M.M.Ghildiyal, J.)**

February 14, 2006

SKSharma